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**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Reps. Somerville, Opsommer and Heise

ENROLLED HOUSE BILL No. 5007

AN ACT to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to promote safe and efficient travel for motor vehicle drivers, bicyclists, pedestrians, and other legal users of roads, streets, and highways; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, local bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts," by amending sections 9a, 10c, 12, 13, and 20a (MCL 247.659a, 247.660c, 247.662, 247.663, and 247.670a), sections 9a, 10c, and 20a as amended by 2010 PA 257, section 12 as amended by 2010 PA 143, and section 13 as amended by 2010 PA 261.

The People of the State of Michigan enact:

Sec. 9a. (1) As used in this section:

(a) "Asset management" means an ongoing process of maintaining, upgrading, and operating physical assets cost-effectively, based on a continuous physical inventory and condition assessment.

(b) "Bridge" means a structure including supports erected over a depression or an obstruction, such as water, a highway, or a railway, for the purposes of carrying traffic or other moving loads, and having an opening measuring along the center of the roadway of more than 20 feet between undercopings of abutments or spring lines of arches, or extreme ends of openings for multiple boxes where the clear distance between openings is less than 1/2 of the smaller contiguous opening.

(c) "Central storage data agency" means that agency or office chosen by the council where the data collected is stored and maintained.

(d) "Council" means the transportation asset management council created by this section.

(e) "Department" means the state transportation department.

(f) "Federal-aid eligible" means a public road or bridge that is eligible for federal aid to be spent for the construction, repair, or maintenance of that road or bridge.

(g) "Local road agency" means a county road commission or designated county road agency or city or village that is responsible for the construction or maintenance of public roads within the state under this act.

(h) "Multiyear program" means a compilation of road and bridge projects anticipated to be contracted for by the department or a local road agency during a 3-year period. The multiyear program shall include a listing of each project to be funded in whole or in part with state or federal funds.

(i) "State planning and development regions" means those agencies required by section 134 of title 23 of the United States Code, 23 USC 134, and those agencies established by Executive Directive 1968-1.

(2) In order to provide a coordinated, unified effort by the various roadway agencies within the state, the transportation asset management council is hereby created within the state transportation commission and is charged with advising the commission on a statewide asset management strategy and the processes and necessary tools needed to implement such a strategy beginning with the federal-aid eligible highway system, and once completed, continuing on with the county road and municipal systems, in a cost-effective, efficient manner. Nothing in this section shall prohibit a local road agency from using an asset management process on its non-federal-aid eligible system. The council shall consist of 10 voting members appointed by the state transportation commission. The council shall include 2 members from the county road association of Michigan, 2 members from the Michigan municipal league, 2 members from the state planning and development regions, 1 member from the Michigan townships association, 1 member from the Michigan association of counties, and 2 members from the department. Nonvoting members shall include 1 person from the agency or office selected as the location for central data storage. Each agency with voting rights shall submit a list of 2 nominees to the state transportation commission from which the appointments shall be made. The Michigan townships association shall submit 1 name, and the Michigan association of counties shall submit 1 name. Names shall be submitted within 30 days after July 3, 2002. The state transportation commission shall make the appointments within 30 days after receipt of the lists.

(3) The positions for the department shall be permanent. The position of the central data storage agency shall be nonvoting and shall be for as long as the agency continues to serve as the data storage repository. The member from the Michigan association of counties shall be initially appointed for 2 years. The member from the Michigan townships association shall be initially appointed for 3 years. Of the members first appointed from the county road association of Michigan, the Michigan municipal league, and the state planning and development regions, 1 member of each group shall be appointed for 2 years and 1 member of each group shall be appointed for 3 years. At the end of the initial appointment, all terms shall be for 3 years. The chairperson shall be selected from among the voting members of the council.

(4) The department shall provide qualified administrative staff and the state planning and development regions shall provide qualified technical assistance to the council.

(5) The council shall develop and present to the state transportation commission for approval within 90 days after the date of the first meeting the procedures and requirements that are necessary for the administration of the asset management process. The procedures and requirements developed and presented by the council shall, at a minimum, include the areas of training, data storage and collection, reporting, development of a multiyear program, budgeting and funding, and other issues related to asset management. All quality control standards and protocols shall, at a minimum, be consistent with existing federal requirements and regulations and existing government accounting standards.

(6) The council may appoint a technical advisory panel whose members shall be representatives from the transportation construction associations and related transportation road interests. The asset management council shall select members to the technical advisory panel from names submitted by the transportation construction associations and related transportation road interests. The technical advisory panel members shall be appointed for 3 years. The asset management council shall determine the research issues and assign projects to the technical advisory panel to assist in the development of statewide policies. The technical advisory panel's recommendations shall be advisory only and are not binding on the asset management council.

(7) The department, each county road commission, and each city and village of this state shall annually submit a report to the transportation asset management council. This report shall include a multiyear program developed through the asset management process described in this section. Projects contained in the department's annual multiyear

program shall be consistent with the department's asset management process and shall be reported consistent with categories established by the transportation asset management council. Projects contained in the annual multiyear program of each local road agency shall be consistent with the asset management process of each local road agency and shall be reported consistent with categories established by the transportation asset management council.

(8) Funding necessary to support the activities described in this section shall be provided by an annual appropriation from the Michigan transportation fund to the state transportation commission.

(9) The department and each local road agency shall keep accurate and uniform records on all road and bridge work performed and funds expended for the purposes of this section, according to the procedures developed by the council. Each local road agency and the department shall annually report to the council the mileage and condition of the road and bridge system under their jurisdiction and the receipts and disbursements of road and street funds in the manner prescribed by the council, which shall be consistent with any current accounting procedures. An annual report shall be prepared by the staff assigned to the council regarding the results of activities conducted during the preceding year and the expenditure of funds related to the processes and activities identified by the council. The report shall also include an overview of the activities identified for the succeeding year. The council shall submit this report to the state transportation commission, the legislature, and the transportation committees of the house and senate by May 2 of each year.

Sec. 10c. As used in this act:

(a) "Urban or rural area" means a contiguous developed area, including the immediate surrounding area, where transportation services should reasonably be provided presently or in the future; the area within the jurisdiction of an eligible authority; or for the purpose of receiving funds for public transportation, a contiguous developed area having a population of less than 50,000 that has an urban public transportation program approved by the department and for which the state transportation commission determines that public transportation services should reasonably be provided presently or in the future.

(b) "Eligible authority" means an authority organized under the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426.

(c) "Eligible governmental agency" means a county, city, or village or an authority created under 1963 PA 55, MCL 124.351 to 124.359; the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512; 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536; 1951 PA 35, MCL 124.1 to 124.13; the public transportation authority act, 1986 PA 196, MCL 124.451 to 124.479; or the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(d) "Transit vehicle" means a bus, rapid transit vehicle, railroad car, street railway car, water vehicle, taxicab, or other type of public transportation vehicle or individual unit, whether operated singly or in a group that provides public transportation.

(e) "Transit vehicle mile" means a transit vehicle operated for 1 mile in public transportation service, including demand actuated and line-haul vehicle miles.

(f) "Demand actuated vehicle" means a bus or smaller transit vehicle operated for providing group rides to members of the general public paying fares individually, and on demand rather than in regularly scheduled route service.

(g) "Demand actuated vehicle mile" means a demand actuated vehicle operated for 1 mile in service to the general public.

(h) "Public transportation", "comprehensive transportation", "public transportation service", "comprehensive transportation service", "public transportation purpose", or "comprehensive transportation purpose" means the movement of people and goods by publicly or privately owned water vehicle, bus, railroad car, street railway, aircraft, rapid transit vehicle, taxicab, or other conveyance that provides general or special service to the public, but not including charter or sightseeing service or transportation that is exclusively for school purposes. Public transportation, public transportation services, or public transportation purposes; and comprehensive transportation, comprehensive transportation services, or comprehensive transportation purposes as defined in this subdivision are declared by law to be transportation purposes within the meaning of section 9 of article IX of the state constitution of 1963.

(i) "State transportation commission" or "commission" means the state transportation commission established in section 28 of article V of the state constitution of 1963.

(j) "Governmental unit" means the state transportation department, the state transportation commission, a county road commission, a city, or a village.

(k) "Department" or "department of transportation" or "state transportation department" means the principal department of state government created under section 350 of the executive organization act of 1965, 1965 PA 380, MCL 16.450.

(l) "Preservation" means an activity undertaken to preserve the integrity of the existing roadway system. Preservation does not include new construction of highways, roads, streets, or bridges, a project that increases the capacity of a highway facility to accommodate that part of traffic having neither an origin nor destination within the

local area, widening of a lane width or more, or adding turn lanes of more than 1/2 mile in length. Preservation includes, but is not limited to, 1 or more of the following:

- (i) Maintenance.
- (ii) Capital preventive treatments.
- (iii) Safety projects.
- (iv) Reconstruction.
- (v) Resurfacing.
- (vi) Restoration.
- (vii) Rehabilitation.
- (viii) Widening of less than the width of 1 lane.
- (ix) Adding auxiliary weaving, climbing, or speed change lanes.
- (x) Modernizing intersections.
- (xi) Adding auxiliary turning lanes of 1/2 mile or less.
- (xii) Installing traffic signs in new locations, installing signal devices in new locations, and replacing existing signal devices.

(m) "Maintenance" means routine maintenance or preventive maintenance, or both. Maintenance does not include capital preventive treatments, resurfacing, reconstruction, restoration, rehabilitation, safety projects, widening of less than 1 lane width, adding auxiliary turn lanes of 1/2 mile or less, adding auxiliary weaving, climbing, or speed-change lanes, modernizing intersections, or the upgrading of aggregate surface roads to hard surface roads. Maintenance of state trunk line highways does not include streetlighting except for freeway lighting for traffic safety purposes.

(n) "Routine maintenance" means actions performed on a regular or controllable basis or in response to uncontrollable events upon a highway, road, street, or bridge. Routine maintenance includes, but is not limited to, 1 or more of the following:

- (i) Snow and ice removal.
- (ii) Pothole patching.
- (iii) Unplugging drain facilities.
- (iv) Replacing damaged sign and pavement markings.
- (v) Replacing damaged guardrails.
- (vi) Repairing storm damage.
- (vii) Repair or operation of traffic signs and signal systems.
- (viii) Emergency environmental cleanup.
- (ix) Emergency repairs.
- (x) Emergency management of road closures that result from uncontrollable events.
- (xi) Cleaning streets and associated drainage.
- (xii) Mowing roadside.
- (xiii) Control of roadside brush and vegetation.
- (xiv) Cleaning roadside.
- (xv) Repairing lighting.
- (xvi) Grading.

(o) "Preventive maintenance" means a planned strategy of cost-effective treatments to an existing roadway system and its appurtenances that preserve assets by retarding deterioration and maintaining functional condition without significantly increasing structural capacity. Preventive maintenance includes, but is not limited to, 1 or more of the following:

- (i) Pavement crack sealing.
- (ii) Micro surfacing.
- (iii) Chip sealing.
- (iv) Concrete joint resealing.
- (v) Concrete joint repair.
- (vi) Filling shallow pavement cracks.
- (vii) Patching concrete.
- (viii) Shoulder resurfacing.

- (ix) Concrete diamond grinding.
- (x) Dowel bar retrofit.
- (xi) Bituminous overlays of 1-1/2 inches or less in thickness.
- (xii) Restoration of drainage.
- (xiii) Bridge crack sealing.
- (xiv) Bridge joint repair.
- (xv) Bridge seismic retrofit.
- (xvi) Bridge scour countermeasures.
- (xvii) Bridge painting.
- (xviii) Pollution prevention.
- (xix) New treatments as they are developed.

(p) "County road commission" means the board of county road commissioners elected or appointed pursuant to section 6 of chapter IV of 1909 PA 283, MCL 224.6, or, in the case of a charter county with a population of 750,000 or more with an elected county executive that does not have a board of county road commissioners, the county executive for ministerial functions and the county commission provided for in section 14(1)(d) of 1966 PA 293, MCL 45.514, for legislative functions. In addition, if a board of county road commissioners is dissolved as provided in section 6 of chapter IV of 1909 PA 283, MCL 224.6, county road commission includes the county board of commissioners of the county.

(q) "Capital preventive treatments" means any preventive maintenance category project on state trunk line highways that qualifies under the department's capital preventive maintenance program.

Sec. 12. (1) The amount distributed to the county road commissions shall be returned to the county treasurers in the manner, for the purposes, and under the terms and conditions specified in this section. The department and the county road association of Michigan shall jointly develop incentives for counties to establish statewide purchasing pools for the more efficient use of Michigan transportation funds.

(2) Each county road commission shall be reimbursed in an amount up to \$10,000.00 per year for the sum paid to a licensed professional engineer employed or retained by the county road commission in the previous year. The sum shall be returned to each county road commission certified by the department as complying with this subsection regarding the employment of an engineer.

(3) An amount equal to 1% of the total amount returned to the county road commissions from the Michigan transportation fund during the prior calendar year shall be withheld annually from the counties' November monthly distribution provided for in section 17, and the amount shall be returned to the county road commissions for snow removal purposes as provided in section 12a.

(4) An amount equal to 10% of the total amount returned to the county road commissions from the Michigan transportation fund shall be returned to each county road commission having county primary, or county local road, or both, mileage in the urban areas as determined pursuant to section 12b. This sum shall be distributed pursuant to section 12b. The return shall be in addition to the amounts provided in subsections (6) and (7) and for the purposes stated in those subsections.

(5) An amount equal to 4% of the total amount returned to the county road commissions from the Michigan transportation fund shall be returned to the county road commissions in the same percentages as provided in subsection (7). All money returned to the county road commissions as provided in this subsection shall be expended by the county road commissions for the preservation, construction, acquisition, and extension of county local road systems and shall be in addition to the amounts provided in subsection (7).

(6) Seventy-five percent of the remainder of the total amount to be returned to the counties shall be expended by each county road commission for the preservation, construction, acquisition, and extension of the county primary road system, including the acquisition of a necessary right of way for the system, work incidental to the system, and a roadside park or motor parkway appurtenant to the system, and shall be returned to the counties as follows:

(a) Three-fourths of the amount in proportion to the amount received within the respective county during the 12 months next preceding the date of each monthly distribution, as specific taxes upon registered motor vehicles under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(b) One-tenth of the amount in the same proportion that the total mileage in the county primary road system of each county bears to the total mileage in all of the county primary road systems of the state.

(c) One eighty-third of the remaining 15% of the amount to each county.

(7) The balance of the remainder of the total amount to be returned to counties shall be expended by each county road commission for the preservation, construction, acquisition, and extension of the county local road system as defined

by this act, including the acquisition of a necessary right of way for the system, work incidental to the system, and a roadside park or motor parkway appurtenant to the system, and shall be returned to the counties as follows:

(a) Sixty-five percent of the amount in the same proportion that the total mileage in the county local road system of each county bears to the total mileage in all of the county local road systems of the state.

(b) Thirty-five percent of the amount in the same proportion that the total population outside of incorporated municipalities in each county bears to the total population outside of incorporated municipalities in all of the counties of the state, according to the most recent statewide federal census as certified at the beginning of the state fiscal year.

(8) Money deposited in, or becoming a part of the county road funds of a board of county road commissioners shall be expended first for the payment of principal and interest on the bonds, for the payment of contractual contributions pledged for the payment of bonds, for debt service requirements for the payment of contractual contributions pledged for the payment of bonds, and for debt service requirements for the payment of notes and loans in the following order of priority:

(a) For the payment of contributions required to be made by a board of county road commissioners under a contract entered into under 1941 PA 205, MCL 252.51 to 252.64, that have been pledged for the payment of the principal and interest on bonds issued under that act, or for the payment of total debt service requirements upon notes issued by a board of county road commissioners under 1943 PA 143, MCL 141.251 to 141.254.

(b) For the payment of principal and interest upon bonds issued under section 18c, and the payment of contributions of a board of county road commissioners made pursuant to contracts entered into under section 18d that are pledged to the payment of principal and interest on bonds issued after June 30, 1957, under the authorization of section 18c and contracts executed pursuant to its provisions.

(c) For the payment of principal and interest upon loans received pursuant to section 11(5), to the extent other funds have not been made available for that payment.

(9) Beginning November 1, 2008, no more than 50% per year of the amount returned to a county for use on the county primary road system may be expended, with or without matching, on the county local road system of that county. Except as otherwise provided in this subsection, beginning September 30, 2010, no more than 30% per year of the amount returned to a county for use on the county primary road system may be expended, with or without matching, on the county local road system of that county. An additional amount, not to exceed 20% per year of the amount returned to a county for use on the county primary road system, may be expended on the county local road system of that county if there is an emergency or if the county road commission determines that an additional 20% may be expended on the county local road system. The county road commission may attach any conditions to its determination if the determination is for nonemergency purposes, including, but not limited to, a requirement that the additional 20% expended on the county local road system only be used to supplement funds from other sources. No more than 15% per year of the amount returned to a county for expenditure on the county local road system may be used, with or without matching, on the county primary road system of that county, and not to exceed an additional 15% per year of the amount returned to a county for expenditure on the county local road system, may, in case of an emergency or with the approval of the county road commission, be expended, with or without matching, on the county primary road system of that county. An amount returned to a county for and on account of county local roads, under this section, in excess of the total amount paid into the county treasury each year by all of the townships of that county for and on account of the county local roads pursuant to section 14(6) may be transferred to and expended on the county primary road system of that county.

(10) Not less than 20% per year of the funds returned to a county by this section shall be expended for snow and ice removal, the construction or reconstruction of a new highway or existing highway, and the acquisition of a necessary right of way for those highways, and work incidental to those highways, or for the servicing of bonds issued by the county for these purposes. Surplus funds may be expended for the development, construction, or repair of an off-street parking facility.

(11) Not more than 5% per year of the funds returned to a county for the county primary road system and the county local road system shall be expended for the maintenance, improvement, or acquisition of appurtenant roadside parks and motor parkways.

(12) Funds returned to a county shall be expended by the county road commission for the purposes provided in this section and shall be deposited by the county treasurer in a designated county depository, in a separate account to the credit of the county road fund, and shall be paid out only upon the order of the county road commission, and interest accruing on the money shall become a part of, and be deposited with the county road fund.

(13) In a county to which funds are returned under this section, the function of the county road commission shall be limited to the formation of policy and the performance of the official duties imposed by law and delegated by the county board of commissioners. A member of the county road commission shall not be employed individually in any other capacity for other duties with the county road commission.

(14) A county road commission may enter into an agreement with a county road commission of an adjacent county and with a city or village to perform work on a highway, road, or street, and with the department with respect to a state

trunk line and connecting links of the state trunk line within the limits of the county or adjacent to the county. The agreement may provide for the performance by each contracting party of the work contemplated by the contract including engineering services and the acquisition of rights of way in connection with the work contemplated, by purchase or condemnation, by any of the contracting parties in its own name and the agreement may provide for joint participation in the costs.

(15) Money distributed from the Michigan transportation fund may be expended for construction purposes on county local roads only to the extent matched by money from other sources. However, Michigan transportation funds may be expended for the construction of bridges on the county local roads in an amount not to exceed 75% of the cost of the construction of local road bridges.

(16) Notwithstanding any other provision of this act, at least 90% of the state revenue returned annually to the county road commission from the Michigan transportation fund less the amounts described in subdivisions (a) to (e) shall be expended annually by the county road commission for the preservation of highways, roads, streets, and bridges, and for the payment of contractual contributions pledged for the payment of bonds or portions of bonds, debt service requirements for the payment of bonds or portions of bonds, and debt service requirements for the payment of notes and loans or portions of notes and loans issued or received after July 1, 1983, for the purpose of providing funds for the preservation of highways, roads, streets, and bridges. If an appropriate certificate is filed under subsection (18) but only to the extent necessary, this subsection does not prohibit the use of any amount of state revenue returned annually to the county road commissions for the payment of contractual contributions pledged for the payment of bonds, for debt service requirements for the payment of bonds, and for debt service requirements for the payment of notes or loans, whenever issued or received, as specified under subsection (8). The amounts that are deducted from the state revenue returned to a county road commission from the Michigan transportation fund, for the purpose of the calculation required by this subsection are as follows:

(a) Amounts expended for the purposes described in subsection (8) for bonds, notes, loans, or other obligations issued or received before July 2, 1983.

(b) Amounts expended for the administrative costs of the county road commission.

(c) Amounts expended for capital outlay projects for equipment and buildings, and for the payment of contractual contributions pledged for the payment of bonds, for debt service requirements for the payment of bonds, and for debt service requirements for the payment of notes and loans issued or received after July 1, 1983, for the purpose of providing funds for capital outlay projects for equipment and buildings.

(d) Amounts expended for projects vital to the economy of the local area or the safety of the public in the local area. Before these amounts can be deducted, the governing body over the county road commission or the county road commission, as applicable, shall pass a resolution approving these projects. This resolution shall state which projects will be funded and the cost of each project. A copy of each approved resolution shall be forwarded immediately to the department.

(e) Amounts expended in urban areas as determined pursuant to section 12b.

(17) As used in this subsection, "urban routes" means those portions of 2-lane county primary roads within an urban area that have average daily traffic in excess of 15,000. Notwithstanding any other provision of this act, except as provided in this subsection, a county road commission shall annually expend at least 90% of the federal revenue distributed to the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges. A county road commission may expend in 1 year less than 90% of the federal revenue distributed to the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges, if that year is part of a 3-year period in which at least 90% of the total federal revenue distributed in the 3-year period to the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for purposes other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, is expended on the preservation of highways, roads, streets, and bridges. If a county road commission expends in 1 year less than 90% of the federal revenue distributed to the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges and that year is not a part of a 3-year period in which at least 90% of the total federal revenue distributed in the 3-year period to the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system, is expended on the preservation of highways, roads, streets, and bridges, the county road commission shall expend in each year subsequent to the 3-year period 100%, or less in 1 year if sufficient for the purposes of this subsection, of the federal revenue distributed to the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges until the average percentage spent on the preservation of highways, roads, streets, and bridges in the

3-year period and the subsequent years, less the amount expended on urban routes for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system, is at least 90%. A year may be included in only one 3-year period for the purposes of this subsection. The requirements of this subsection shall be waived if compliance would cause the county road commission to be ineligible for federal revenue under federal law, but only to the extent necessary to make the county road commission eligible for that revenue under federal law. For the purpose of the calculations required by this subsection, the amount expended on urban routes by a county road commission for purposes other than preservation and the amount expended for hard-surfacing of gravel roads on the federal-aid system shall be deducted from the total federal revenue distributed to the use of the county road commission.

(18) A county road commission shall certify to the department on or before the issuance of any bonds or notes issued after July 1, 1983, pursuant to 1943 PA 143, MCL 141.251 to 141.254, 1941 PA 205, MCL 252.51 to 252.64, or section 18c or 18d, for purposes other than the preservation of highways, roads, streets, and bridges and purposes other than the purposes specified in subsection (16)(c) that its average annual debt service requirements for all bonds and notes or portions of bonds and notes issued after July 1, 1983, for purposes other than the preservation of highways, roads, streets, and bridges and other than for the purposes specified in subsection (16)(c), including the bond or note to be issued does not exceed 10% of the funds returned to the county road commission pursuant to this act, less the amounts specified in subsection (16)(a), (b), and (c) during the last completed fiscal year of the county road commission. If the purpose for which the bonds or notes are issued is changed after the issuance of the notes or bonds, the change shall be made in a manner that maintains compliance with the certification required by this subsection, as of the date the certificate was originally issued, but no such change shall invalidate or otherwise affect the bonds or notes with respect to which the certificate was issued or the obligation to pay debt service on the bonds or notes. A certification under this subsection is conclusive as to the matters stated in the certification for purposes of the validity of bonds and notes.

(19) In each charter county to which funds are returned under this section, the responsibility for road improvement, preservation, and traffic operation work, and the development, construction, or repair of off-road parking facilities and construction or repair of road lighting shall be coordinated by a single administrator to be designated by the county executive who shall be responsible for and shall represent the charter county in transactions with the department pursuant to this act.

(20) Not more than 10% per year of all of the funds received by and returned to a county from any source for the purposes of this section may be expended for administrative expenses. A county that expends more than 10% for administrative expenses in a year is subject to section 14(5) unless a waiver is granted by the department of treasury. As used in this subsection, "administrative expenses" means those expenses that are not assigned including, but not limited to, specific road construction or preservation projects and are often referred to as general or supportive services. Administrative expenses do not include net equipment expense, net capital outlay, debt service principal and interest, and payments to other state or local offices that are assigned, but not limited to, specific road construction projects or preservation activities.

(21) In addition to the financial compliance audits required by law, the department may conduct performance audits and make investigations of the disposition of all state funds received by county road commissions, county boards of commissioners, or any other county governmental agency acting as the county road authority, for transportation purposes to determine compliance with the terms and conditions of this act. Performance audits shall be conducted according to government auditing standards issued by the United States general accounting office. The department shall develop performance audit procedures and reporting requirements sufficient to determine whether funds expended under this section were expended in compliance with this act by September 1, 2012 and shall report to the transportation committees of the senate and house of representatives no later than October 1, 2012 on the additional audit procedures and reporting requirements. The department shall provide notice to the county road commission, county board of commissioners, or any other county governmental agency acting as the county road authority, as applicable, of the standards to be used for audits performed under this subsection. The notice shall be provided 6 months prior to the fiscal year in which the audit is conducted. The department shall notify the county road commission, county board of commissioners, or any other county governmental agency acting as the county road authority of any subsequent changes to the standards. County road commissions, county boards of commissioners, or any other county governmental agencies acting as county road authorities, as applicable, shall make available to the department the pertinent records for the audit. Performance audits may be performed at the discretion of the department or upon receiving a request from the speaker of the house of representatives or the senate majority leader.

Sec. 13. (1) The amount distributed to cities and villages shall be returned to the treasurers of the cities and villages in the manner, for the purposes, and under the terms and conditions specified in this section. The amount received by a newly incorporated municipality shall be in place of any other direct distribution of funds from the Michigan transportation fund. The population of a newly incorporated municipality as determined under this section shall be added to the total population of all incorporated cities and villages in the state in computing the amounts to be returned under this section to each municipality in the state. Major street mileage, local street mileage, and equivalent major mileage, if applicable, shall be determined by the department before the next month for which distribution is made following the effective date of incorporation of a newly incorporated municipality.

(2) From the amount available for distribution to cities and villages during each December, an amount equal to 0.7% of the total amount returned to all cities and villages under subsections (3) and (4) during the previous calendar year shall be withheld. The amount withheld shall be used to partially reimburse cities and villages located in counties that are eligible for snow removal funds pursuant to section 12a and that have costs for winter maintenance on major and local streets that are greater than the statewide average. The distributions shall be made annually during February and shall be calculated separately for the major and local street systems but may be paid in a combined warrant. The distribution to a city or village shall be equal to 1/2 of its winter maintenance expenditures after deducting the product of its total earnings under subsections (3) and (4) multiplied by 2 times the average municipal winter maintenance factor. Winter maintenance expenditures shall be determined from the street financial reports for the most current fiscal years ending before July 1. A city or village that does not submit a street financial report for the fiscal year ending before July 1 by the subsequent December 31 is ineligible for the winter maintenance payment that is to be based on that street financial report. The department shall determine the average municipal winter maintenance factor annually by dividing the total expenditures of all cities and villages on winter maintenance of streets and highways by the total amount earned by all cities and villages under subsections (3) and (4) during the 12 months. If the sum of the distributions to be made under this subsection exceeds the amount withheld, the distributions to each eligible city and village shall be reduced proportionately. If the sum is less than the amount withheld, the balance shall be added to the amount available for distribution under subsections (3) and (4) during the next month. The distributions shall be for use on the major and local street systems respectively and shall be subject to the same provisions as funds returned under subsections (3) and (4).

(3) Seventy-five percent of the remaining amount to be returned to the cities and villages, after deducting the amounts withheld pursuant to subsection (2), shall be returned 60% in the same proportion that the population of each bears to the total population of all cities and villages, and 40% in the same proportion that the equivalent major mileage in each bears to the total equivalent major mileage in all cities and villages. The amount returned under this subsection shall be used by each city and village for the following purposes in the following order of priority:

(a) For the payment of contributions required to be made by a city or village under the provisions of contracts previously entered into under 1941 PA 205, MCL 252.51 to 252.64, that have been previously pledged for the payment of the principal and interest on bonds issued under that act; or for the payment of the principal and interest upon bonds issued by a city or village pursuant to 1952 PA 175, MCL 247.701 to 247.707.

(b) Payment of obligations of the city or village on highway projects undertaken by the city or village jointly with the department.

(c) For the payment of principal and interest upon loans received pursuant to section 11(5), to the extent other funds have not been made available for that payment.

(d) For the preservation, construction, acquisition, and extension of the major street system as defined by this act including the acquisition of a necessary right of way for the system, work incidental to the system, and an appurtenant roadside park or motor parkway, of the city or village and for the payment of the principal and interest on that portion of the city's or village's general obligation bonds that are attributable to the construction or reconstruction of the city's or village's major street system. Not more than 5% per year of the funds returned to a city or village by this subsection shall be expended for the preservation or acquisition of appurtenant roadside parks and motor parkways. Surplus funds may be expended for the development, construction, or repair of off-street parking facilities, the construction or repair of street lighting, and transfer to the local street system under subsection (6).

(e) For capital outlay projects for equipment and buildings, contributions pledged for the payment of loans and for the payment of contractual debt service requirements for the payment of bonds for the purpose of providing funds for capital outlay projects for equipment and buildings necessary to the development and maintenance of the road system so long as amounts allocated under this subdivision are used for transportation purposes.

(4) The remaining amount to be returned to incorporated cities and villages shall be expended in each city or village for the preservation, construction, acquisition, and extension of the local street system of the city or village, including the acquisition of a necessary right of way for the system, work incidental to the system, and subject to subsection (5), for the payment of the principal and interest on the portion of the city's or village's general obligation bonds that are attributable to the construction or reconstruction of the city's or village's local street system. The amount returned under this subsection shall be returned to the cities and villages 60% in the same proportion that the population of each bears to the total population of all incorporated cities and villages in the state, and 40% in the same proportion that the total mileage of the local street system of each bears to the total mileage in the local street systems of all cities and villages of the state. The payment of the principal and interest upon bonds issued by a city or village pursuant to 1952 PA 175, MCL 247.701 to 247.707, and after that payment, the payment of debt service on loans received under section 11(5), shall have priority in the expenditure of money returned under this subsection.

(5) Money distributed to each city and village for the maintenance and preservation of its local street system under this act represents the total responsibility of the state for local street system support. Funds distributed from the Michigan transportation fund shall not be expended for construction purposes on city and village local streets except to

the extent matched from local revenues including other money returned to a city or village by the state under the state constitution of 1963 and statutes of the state, from funds that can be raised by taxation in cities and villages for street purposes within the limitations of the state constitution of 1963 and statutes of this state, from special assessments, or from any other source.

(6) Money returned under this section to a city or village shall be expended on the major and local street systems of that city or village. However, the first priority shall be the major street system. Money returned for expenditure on the major street system shall be expended in the priority order provided in subsection (3) except that surplus funds may be transferred for preservation of the local street system. Major street funds transferred for use on the local street system shall not be used for construction but may be used for preservation. A city or village shall not transfer more than 50% of its annual major street funding for the local street system unless it has adopted and is following an asset management process for its major and local street systems and adopts a resolution with a copy to the department setting forth all of the following:

(a) A list of the major streets in that city or village.

(b) A statement that the city or village is adequately maintaining its major streets.

(c) The dollar amount of the transfer.

(d) The local streets to be funded with the transfer.

(e) A statement that the city or village is following an asset management process for its major and local street systems.

(7) A city or village that has not adopted an asset management plan shall obtain the concurrence of the department to transfer more than 50% of its major street funding to its local street system. The department may provide for pilot projects that would allow a city or village that has adopted an asset management plan under subsection (6) to combine their local and major street funds into 1 street fund and to submit a single report to the department on the expenditure of funds on the local and major street systems.

(8) Not more than 10% per year of all of the funds returned to a city or village from any source for the purposes of this section may be expended for administrative expenses. A city or village that expends more than 10% for administrative expenses in a year is subject to section 14(5).

(9) In each city and village to which funds are returned under this section, the responsibility for street preservation and the development, construction, or repair of off-street parking facilities and construction or repair of street lighting shall be coordinated by a single administrator to be designated by the governing body who shall be responsible for and shall represent the municipality in transactions with the department pursuant to this act.

(10) Cities and villages may provide for consolidated street administration. A city or a village may enter into an agreement with other cities or villages, the county road commission, or with the state transportation commission for the performance of street or highway work on a road or street within the limits of the city or village or adjacent to the city or village. The agreement may provide for any of the contracting parties to perform the work contemplated by the contracts including services and acquisition of rights of way, by purchase or condemnation in its own name. The agreement may provide for joint participation in the costs if appropriate.

(11) Interest earned on funds returned to a city or a village for purposes provided in this section shall be credited to the appropriate street fund.

(12) In addition to the financial compliance audits required by law, the department may conduct performance audits and make investigations of the disposition of all state funds received by cities and villages for transportation purposes to determine compliance with the terms and conditions of this act. Performance audits shall be conducted according to government auditing standards issued by the United States general accounting office. The department shall develop all performance audit procedures and reporting requirements sufficient to determine whether funds expended under this section were expended in compliance with this act by September 1, 2012 and shall report to the transportation committees of the senate and house of representatives no later than October 1, 2012 on the additional audit procedures and reporting requirements. The audit procedures shall include a review of the road fund balance of the city or village. The cities and villages shall report their road fund balances by fund balance component. The department shall assist cities and villages to ensure that road fund balances are consistently classified and are in compliance with the audit and reporting requirements of this section. The department shall provide notice to cities and villages of the standards to be used for audits under this subsection prior to the fiscal year in which the audit is conducted. The department shall notify cities and villages of any subsequent changes to the standards. Cities and villages shall make available to the department the pertinent records for the audit. Performance audits may be performed at the discretion of the department or upon receiving a request from the speaker of the house of representatives or the senate majority leader.

(13) As used in this section:

(a) "Administrative expenses" means expenses that are not assigned under this section, including, but not limited to, specific road construction or maintenance projects, and are often referred to as general or supportive services.

Administrative expenses do not include net equipment expense, net capital outlay, debt service principal and interest, or payments to other state or local offices that are assigned, but not limited to, specific road construction projects or maintenance activities.

(b) "Equivalent major mileage" means the sum of 2 times the state trunk line mileage certified by the department as of March 31 of each year, as being within the boundaries of each city and village having a population of 25,000 or more, plus the major street mileage in each city and village, multiplied by the following factor:

- (i) 1.0 for cities and villages of 2,000 or less population.
- (ii) 1.1 for cities and villages from 2,001 to 10,000 population.
- (iii) 1.2 for cities and villages from 10,001 to 20,000 population.
- (iv) 1.3 for cities and villages from 20,001 to 30,000 population.
- (v) 1.4 for cities and villages from 30,001 to 40,000 population.
- (vi) 1.5 for cities and villages from 40,001 to 50,000 population.
- (vii) 1.6 for cities and villages from 50,001 to 65,000 population.
- (viii) 1.7 for cities and villages from 65,001 to 80,000 population.
- (ix) 1.8 for cities and villages from 80,001 to 95,000 population.
- (x) 1.9 for cities and villages from 95,001 to 160,000 population.
- (xi) 2.0 for cities and villages from 160,001 to 320,000 population.

(xii) For cities over 320,000 population, a factor of 2.1 increased successively by 0.1 for each 160,000 population increment over 320,000.

(c) "Population" means the population according to the most recent statewide federal census as certified at the beginning of the state fiscal year, except that, if a municipality has been newly incorporated since completion of the census, the population of the municipality for purposes of the distribution of funds before completion of the next census shall be the population as determined by special federal census, if there is a special federal census, and if not, by the population as determined by the official census in connection with the incorporation, if there is such a census and, if not, by a special state census to be taken at the expense of the municipality by the secretary of state pursuant to section 6 of the home rule city act, 1909 PA 279, MCL 117.6.

Sec. 20a. A board of county road commissioners in a county and the township board of a township with a population of 15,000 or more, and which in the prior year and the contract year will have levied a property tax of not less than 1 mill on each dollar of assessed valuation of the township for the improvement or preservation of county roads within the township, may exercise the provisions of this section only by entering into a written contract of not more than 1 year providing for the preservation by the township of all or any part of the county local road system within that township, subject to, at a minimum, the following conditions:

(a) The contract shall specify the total amount of money that shall be annually expended by the contracting township for the preservation of all or part of the local road system. The contracting road commission may pay not more than 90% of the amount specified in the contract to the contracting township annually. The contracting road commission shall not pay more than 66% of an amount equal to the average annual amount of funds expended by the county road commission on the local road system located within the contracting township for construction and preservation purposes over the previous 5-year period from local road funds received by the county under this act. The contracting township shall match any funds expended by the contracting road commission on the local road system located within the contracting township in excess of 66%. The amount paid to the contracting township shall not directly or indirectly include money transferred from the primary fund allocation to the county under section 12(8).

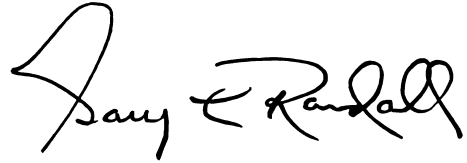
(b) The contracting township shall keep separate accounts and accurate and uniform records on all road preservation work and funds, and shall file with the state transportation commission and the contracting county road commission on or before April 1 of each year, on forms provided by the state transportation commission, a report showing the disposition of funds received and expended for road purposes.

(c) The contract shall require the contracting township to provide insurance covering the contracting road commission's liability for failure to preserve the local roads specified in the contract.

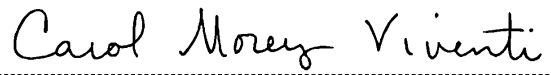
(d) The contracting road commission shall determine and specify the equipment and personnel necessary to provide the preservation as set forth in the contract, and the contract shall not take effect until the contracting township has acquired the necessary equipment and personnel specified in the contract.

(e) As used in this section, "preservation" means that term as defined in section 10c unless the contracting parties specify a different meaning in the contract.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor